

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Governmental Affairs and Interstate Cooperation, to which was referred House Bill No. 1114, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Page 1, line 6, delete "any" and insert "**either**".
- 2 Page 2, between lines 8 and 9, begin a new paragraph and insert:
- 3 "SECTION 3. IC 36-2-7-10 IS AMENDED TO READ AS
- 4 FOLLOW [EFFECTIVE JULY 1, 2006]: Sec. 10. (a) The county
- 5 recorder shall tax and collect the fees prescribed by this section for
- 6 recording, filing, copying, and other services the recorder renders, and
- 7 shall pay them into the county treasury at the end of each calendar
- 8 month. The fees prescribed and collected under this section supersede
- 9 all other recording fees required by law to be charged for services
- 10 rendered by the county recorder.
- 11 (b) The county recorder shall charge the following:
- 12 (1) Six dollars (\$6) for the first page and two dollars (\$2) for each
- 13 additional page of any document the recorder records if the pages
- 14 are not larger than eight and one-half (8 ½) inches by fourteen
- 15 (14) inches.
- 16 (2) Fifteen dollars (\$15) for the first page and five dollars (\$5) for
- 17 each additional page of any document the recorder records, if the
- 18 pages are larger than eight and one-half (8 ½) inches by fourteen
- 19 (14) inches.
- 20 (3) For attesting to the release, partial release, or assignment of

any mortgage, judgment, lien, or oil and gas lease contained on a multiple transaction document, the fee for each transaction after the first is the amount provided in subdivision (1) plus the amount provided in subdivision (4) and one dollar (\$1) for marginal mortgage assignments or marginal mortgage releases.

(4) One dollar (\$1) for each cross-reference of a recorded document.

(5) One dollar (\$1) per page not larger than eight and one-half (8 1/2) inches by fourteen (14) inches for furnishing copies of records produced by a photographic process, and two dollars (\$2) per page that is larger than eight and one-half (8 1/2) inches by fourteen (14) inches.

(6) Five dollars (\$5) for acknowledging or certifying to a document.

(7) Five dollars (\$5) for each deed the recorder records, in addition to other fees for deeds, for the county surveyor's corner perpetuation fund for use as provided in IC 32-19-4-3 or IC 36-2-12-11(e).

(8) A fee in an amount authorized under IC 5-14-3-8 for transmitting a copy of a document by facsimile machine.

(9) A fee in an amount authorized by an ordinance adopted by the county legislative body for duplicating a computer tape, a computer disk, an optical disk, microfilm, or similar media. This fee may not cover making a handwritten copy or a photocopy or using xerography or a duplicating machine.

(10) A supplemental fee of three dollars (\$3) for recording a document that is paid at the time of recording. The fee under this subdivision is in addition to other fees provided by law for recording a document.

(11) Three dollars (\$3) for each mortgage on real estate recorded, in addition to other fees required by this section, distributed as follows:

(A) Fifty cents (\$0.50) is to be deposited in the recorder's record perpetuation fund.

(B) Two dollars and fifty cents (\$2.50) is to be distributed to the auditor of state on or before June 20 and December 20 of each year as provided in IC 24-9-9-3.

(c) The county recorder shall charge a two dollar (\$2) county identification security protection fee for recording or filing a document. This fee shall be deposited under IC 36-2-7.5-6.

~~(c)~~ (d) The county treasurer shall establish a recorder's records

perpetuation fund. All revenue received under subsection (b)(5), (b)(8), (b)(9), and (b)(10), and fifty cents (\$0.50) from revenue received under subsection (b)(11), shall be deposited in this fund. The county recorder may use any money in this fund without appropriation for the preservation of records and the improvement of record keeping systems and equipment.

~~(d)~~ (e) As used in this section, "record" or "recording" includes the functions of recording, filing, and filing for record.

~~(e)~~ (f) The county recorder shall post the fees set forth in subsection (b) in a prominent place within the county recorder's office where the fee schedule will be readily accessible to the public.

~~(f)~~ (g) The county recorder may not tax or collect any fee for:

(1) recording an official bond of a public officer, a deputy, an appointee, or an employee; or

(2) performing any service under any of the following:

(A) IC 6-1.1-22-2(c).

(B) IC 8-23-7.

(C) IC 8-23-23.

(D) IC 10-17-2-3.

(E) IC 10-17-3-2.

(F) IC 12-14-13.

(G) IC 12-14-16.

~~(g)~~ (h) The state and its agencies and instrumentalities are required to pay the recording fees and charges that this section prescribes.

SECTION 4. IC 36-2-7-10.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 10.1. (a) As used in this section, "bulk form" means:

(1) a copy of all recorded documents received by the county recorder for recording in a calendar day, week, month, or year;

(2) the indices for finding, retrieving, and viewing all recorded documents received by the county recorder for recording in a calendar day, week, month, or year; or

(3) both subdivisions (1) and (2).

(b) As used in this section, "bulk user" means an individual, a corporation, a partnership, a limited liability company, or an unincorporated association that purchases bulk form copies. However, "bulk user" does not include an individual, a corporation, a partnership, a limited liability company, or an unincorporated association whose primary purpose is to resell public records.

(c) As used in this section, "copy" means:

(1) duplicating electronically stored data onto a disk, tape, drum,

1 or any other medium of electronic data storage; or

2 (2) reproducing on microfilm.

3 (d) As used in this section, "indices" means all of the indexing
4 information used by the county recorder for finding, retrieving, and
5 viewing a recorded document.

6 (e) As used in this section, "recorded document" means a writing, a
7 paper, a document, a plat, a map, a survey, or anything else received at
8 any time for recording or filing in the public records maintained by the
9 county recorder.

10 (f) The county recorder shall collect the fees prescribed by this
11 section for the sale of recorded documents in bulk form copies to bulk
12 users of public records. The county recorder shall pay the fees into the
13 county treasury at the end of each calendar month. The fees prescribed
14 and collected under this section supersede all other fees for bulk form
15 copies required by law to be charged for services rendered by the county
16 recorder to bulk users.

17 (g) Except as provided by subsection (h), the county recorder shall
18 charge bulk users the following for bulk form copies:

19 (1) Five cents (\$0.05) per page for a recorded document, including
20 the index of the instrument number or book and page, or both, for
21 retrieving the recorded document.

22 (2) Five cents (\$0.05) per recorded document for a copy of the
23 other indices used by the county recorder for finding, retrieving,
24 and viewing a recorded document.

25 (h) As used in this subsection, "actual cost" does not include labor
26 costs or overhead costs. The county recorder may charge a fee that
27 exceeds the amount established by subsection (g) if the actual cost of
28 providing the bulk form copies exceeds the amount established by
29 subsection (g). However, the total amount charged for the bulk form
30 copies may not exceed the actual cost plus one cent (\$0.01) of providing
31 the bulk form copies.

32 (i) The county recorder shall provide bulk users with bulk form
33 copies in the format or medium in which the county recorder maintains
34 the recorded documents and indices. If the county recorder maintains the
35 recorded documents and indices in more than one (1) format or medium,
36 the bulk user may select the format or medium in which the bulk user
37 shall receive the bulk form copies. If the county recorder maintains the
38 recorded documents and indices for finding, retrieving, and viewing the
39 recorded documents in an electronic or a digitized format, a reasonable
40 effort shall be made to provide the bulk user with bulk form copies in
41 a standard, generally acceptable, readable format. Upon request of the

bulk user, the county recorder shall provide the bulk form copies to the bulk user within a reasonable time after the recorder's archival process is completed and bulk form copies become available in the office of the county recorder.

(j) Bulk form copies under this section may be used:

- (1) in the ordinary course of the business of the bulk user; and
- (2) by customers of the bulk user.

The bulk user may charge its customers a fee for using the bulk form copies obtained by the bulk user. However, bulk form copies obtained by a bulk user under this section may not be resold.

(k) All revenue generated by the county recorder under this section shall be deposited in the recorder's record perpetuation fund and used by the recorder in accordance with ~~IC 36-2-7-10(c)~~: **section 10(c) of this chapter.**

(l) This section does not apply to enhanced access under IC 5-14-3-3.

SECTION 5. IC 36-2-7.5-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1.5. This chapter does not apply to a federal lien on real property or federal tax lien on personal property as described in IC 36-2-11-25.**

SECTION 6. IC 36-2-7.5-2, AS ADDED BY P.L.91-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this chapter, "redacting technology" refers to technology that has the ability to:

- (1) search recorded **and filed** documents; and
- (2) redact Social Security numbers from recorded **and filed** documents.

SECTION 7. IC 36-2-7.5-4, AS ADDED BY P.L.91-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. A document may not be submitted to the county recorder for recording **or filing** if the document contains the Social Security number of an individual, unless required by law.

SECTION 8. IC 36-2-7.5-5, AS ADDED BY P.L.91-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) An individual preparing a document for recording **or filing** shall affirm, ~~under the penalties for perjury; that the individual has:~~

- ~~(1) reviewed the entire document before submitting the document for recording for the purpose of identifying and; to the extent permitted by law, redacting all Social Security numbers; and~~

1 (2) taken reasonable care to redact each Social Security number in
2 the document.

3 (b) An individual shall make the affirmation required under
4 subsection (a) on a form prescribed by the state board of accounts.
5 **make the affirmation and statement required by IC 36-2-11-15(c)**
6 **and IC 36-2-11-15(d).".**

7 Page 2, line 17, after "charge a" insert "**two dollar (\$2) county**
8 **identification security protection".**

9 Page 2, line 17, after "recording" insert "**or filing".**

10 Page 2, line 18, strike "accordance with" and insert "**addition to the**
11 **fees required by".**

12 Page 2, between lines 22 and 23, begin a new paragraph and insert:
13 "SECTION 9. IC 36-2-7.5-7, AS ADDED BY P.L.91-2005,
14 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 UPON PASSAGE]: Sec. 7. The state board of accounts shall establish
16 reasonable procedures for a county recorder to follow:

17 (1) when receiving and reviewing a document submitted for
18 recording **or filing**; and

19 (2) in order to comply with this chapter.".

20 Page 2, line 27, "practicable," and insert "**practicable and as**
21 **permitted by law,".**

22 Page 2, line 28, after "recorded" insert "**or filed".**

23 Page 2, between lines 33 and 34, begin a new paragraph and insert:
24 "SECTION 10. IC 36-2-7.5-9, AS ADDED BY P.L.91-2005,
25 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
26 UPON PASSAGE]: Sec. 9. A county recorder shall post a notice in the
27 county recorder's office that states the:

28 (1) duties of:

29 (A) an individual preparing **or reviewing** a document for
30 recording **or filing**; and

31 (B) the county recorder;

32 under this chapter; and

33 (2) penalties under section 12 of this chapter.".

34 Page 3, line 11, after "recorded" insert "**or filed".**

35 Page 3, line 13, delete "practicable," and insert "**practicable and as**
36 **permitted by law,".**

37 Page 3, between lines 14 and 15, begin a new paragraph and insert:

38 "SECTION 13. IC 36-2-11-15 IS AMENDED TO READ AS
39 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 15. (a) This section
40 does not apply to:

(1) an instrument executed before July 1, 1959, or recorded before July 26, 1967;

(2) a judgment, order, or writ of a court;

(3) a will or death certificate; ~~or~~

(4) an instrument executed or acknowledged outside Indiana; **or**

(5) a federal lien on real property or a federal tax lien on personal property, as described in section 25 of this chapter.

(b) The recorder may receive for record or filing an instrument that conveys, creates, encumbers, assigns, or otherwise disposes of an interest in or lien on property only if:

(1) the name of the person and governmental agency, if any, that prepared the instrument is printed, typewritten, stamped, or signed in a legible manner at the conclusion of the instrument; **and**

(2) all Social Security numbers in the document are redacted, unless required by law.

(c) An instrument complies with ~~this section~~ **subsection (b)(1)** if it contains a statement in the following form: "This instrument was prepared by (name)".

(d) An instrument complies with subsection (b)(2) if it contains a statement in the following form: "I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. (name)".

SECTION 14. IC 36-2-11-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 25. (a) This section applies to:

(1) a lien arising under Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601 et seq. (commonly known as the Superfund Law); and

(2) any other federal lien on real property or any federal tax lien on personal property provided for in the statutes or regulations of the United States.

In order for a lien covered by this section to be perfected, notice of the lien must be filed in the office of the recorder of the county in which the real or personal property subject to the lien is located.

(b) When a notice of a lien covered by this section is presented to the recorder for filing, the recorder shall enter it appropriately in the entry book and in the miscellaneous record. The entries made under this subsection must show the date of filing, the book and page number or instrument number, the name of the person named in the notice, a legal

1 description of the property, if appropriate, and any serial number or
 2 other identifying number given in the notice.

3 (c) When a certificate of discharge of a federal lien covered by this
 4 section is issued by the proper officer and presented for filing in the
 5 office of the recorder of the county where the notice of lien was filed,
 6 the recorder shall record the certificate of discharge as a release of the
 7 lien. However, to be recorded under this subsection, the certificate must
 8 refer to the recorder's book and page number or instrument number
 9 under which the lien was recorded.

10 (d) When recording a release of a lien under subsection (c), the
 11 recorder shall inscribe, in the margin of each entry made to record the
 12 lien under subsection (a), a reference to the place where the release is
 13 recorded.

14 (e) Upon the recording of the certificate of discharge as a release
 15 under subsection (c) and the inscribing of the references to the release
 16 under subsection (d), a certificate of discharge of a lien covered by this
 17 section operates as a full discharge and satisfaction of the lien, unless
 18 the references to the release inscribed under subsection (d) specifically
 19 note the release as a partial lien release.

20 **(f) A federal lien on real property and a federal tax lien on**
 21 **personal property are not subject to the:**

22 **(1) requirement to redact Social Security numbers as**
 23 **described in IC 36-2-7.5-1.5; or**

24 **(2) requirements to include statements in a recorded or filed**
 25 **instrument as described in section 15(c) and 15(d) of this**
 26 **chapter."**

27 Page 4, delete lines 3 through 4.

28 Renumber all SECTIONS consecutively.

(Reference is to HB 1114 as reprinted January 18, 2006.)

and when so amended that said bill do pass .

Committee Vote: Yeas 10, Nays 0.

Senator Riegsecker, Chairperson